

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 17th day of May, 2022.

Alexander Cameron, No. 1172733,

Petitioner,

against

Record No. 210748

Thomas F. Meyer, Warden,

Respondent.

Upon a Petition for a Writ of Habeas Corpus

Upon consideration of the petition for a writ of habeas corpus filed August 5, 2021, the rule to show cause, the respondent's motion to dismiss, and petitioner's motion for summary judgment, the Court is of the opinion that the motion to dismiss should be granted and the petition should be dismissed.

Petitioner was convicted in the Circuit Court of the City of Alexandria in 1987 of rape, abduction, robbery, and burglary and was sentenced to two life terms plus twenty-five years' incarceration. Petitioner's appeals to the Court of Appeals of Virginia and to this Court were unsuccessful. Petitioner filed unsuccessful petitions for writs of habeas corpus in this Court challenging these convictions in 1998, 2000, 2006, 2012, and 2019. Petitioner again challenges the legality of his confinement pursuant to these convictions.

In his sole claim, petitioner contends he is actually innocent. Petitioner asserts he received evidence by letter dated July 14, 2020, showing the victim's blood type was B negative. Petitioner asserts both the prosecutor and his defense counsel were aware of this at the time of his trial, but deliberately informed the jury that the victim's blood type was O, as was petitioner's. Petitioner asserts this new evidence proves the victim does not exist and that he was convicted for a crime he did not commit.

The Court dismisses the petition pursuant to Code § 8.01-663. The record, including the exhibits filed with the motion to dismiss the petition, demonstrates that petitioner filed a petition for a writ of habeas corpus in the Circuit Court of the City of Alexandria raising an identical claim. That petition was dismissed by order entered November 10, 2021. Pursuant to Code § 8.01-663, the November 10, 2021 judgment is conclusive as to any further petition for a writ of

habeas corpus raising this issue. Accordingly, the petition must be dismissed.

Upon further consideration whereof, petitioner's motions for summary judgment, an evidentiary hearing, and the appointment of counsel are denied.

Accordingly, the petition is dismissed and the rule is discharged.

A Copy,

Teste:

Muriel-Theresa Pitney, Clerk

By:

Melinda Fayman

Deputy Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 5th day of July, 2022.

Alexander Cameron,

Appellant,

against

Record No. 211146

Circuit Court No. CL21002105

Director of the Department of Corrections,

Appellee.

From the Circuit Court of the City of Alexandria

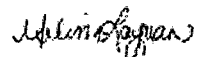
Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

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Teste:

Muriel-Theresa Pitney, Clerk

By:



Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

ALEXANDER CAMERON, No. 1172733,

Petitioner,

v.

Case No. CL21002105

**THE DIRECTOR OF
THE DEPARTMENT OF CORRECTIONS,**

Respondent.

FINAL ORDER

Upon proper motion and it appearing proper to do so, the Court finds that the proper respondent in the instant action is: The Director of the Department of Corrections. It is therefore,

ORDERED that the Director of the Department of Corrections be and hereby is, substituted as the party respondent in this action in accordance with Virginia Code § 8.01-658.

It is FURTHER ORDERED that all subsequent pleadings be styled as *Alexander Cameron v. The Director of the Department of Corrections* and indexed accordingly by the Clerk of this Court.

Furthermore, upon mature consideration of the pleadings and controlling legal authority and a review of the record, the Court finds the petitioner, Alexander Cameron, is not entitled to the relief sought and makes the following findings of fact and conclusions of law.

Procedural History

Cameron is detained pursuant to a final judgment of this Court in matters CF8825. A jury trial was held on June 11, 1987 on charges of rape, abduction, robbery, and burglary. The jury convicted Cameron of all charges and fixed his term of incarceration at two life sentences plus 25 years. This Court entered its final judgment on October 22, 1987.

Cameron appealed his convictions to the Court of Appeals. That court denied his petition on December 29, 1992. Cameron then filed a petition for appeal in the Supreme Court, which was dismissed on March 12, 1993.

On September 16, 2019, Cameron filed a petition for a writ of habeas corpus in the Supreme Court. The Supreme Court found that the petition was not timely filed because it had not been filed within one year of July 1, 1998, the date that Code § 8.01-654(A)(2) became effective, which established the statute of limitations for the filing of a habeas corpus petition.

On or around July 16, 2021, Cameron filed a petition for a writ of habeas corpus in this Court. In that petition, Cameron asserts that he is actually innocent of the crimes of conviction in light of “newly discovered incontrovertible evidence.” He also suggests that this newly discovered evidence of his innocence establishes that the prosecution and the trial court judge engaged in a “malicious criminal conspiracy” against him.

Cameron’s Claim is Not Cognizable in Habeas Corpus

Cameron uses his latest habeas corpus to assert that he is actually innocent of the crimes of conviction based on what he calls “newly discovered incontrovertible evidence.” However, the Court finds that such a claim is not cognizable in a habeas corpus proceeding. *See Teleguz v. Commonwealth*, 279 Va. 1, 1, 688 S.E.2d 865, 868-69 (2010) (holding claims of actual innocence are barred from review in habeas corpus); *Lovitt v. Warden*, 266 Va. 216, 259, 585 S.E.2d 801, 826-27 (2003) (“[A]n assertion of actual innocence is outside the scope of habeas corpus review, which concerns only the legality of the petitioner’s detention.”). The legislature has created a separate cause of action to adjudicate claims of actual innocence. *See* Code §§ 19.2-327.10 *et seq.* Accordingly, because Cameron’s latest habeas corpus petition is actually a declaration of actual innocence, the Court now dismisses his petition.

Cameron's Petition is Time-Barred

The Court further finds that Cameron's most recent habeas corpus petition is also barred by the applicable statute of limitations.

A petition for writ of habeas corpus ad subjiciendum, other than a petition challenging a criminal conviction or sentence, shall be brought within one year after the cause of action accrues. A habeas corpus petition attacking a criminal conviction or sentence, except as provided in § 8.01-654.1 for cases in which a death sentence has been imposed, shall be filed within two years from the date of final judgment in the trial court or within one year from either final disposition of the direct appeal in state court or the time for filing such appeal has expired, whichever is later.

Va. Code § 8.01-654(A)(2) (emphasis added). The Supreme Court has noted that the statute of limitations "contains no exception allowing a petition to be filed after the expiration of these limitations periods." *Hines v. Kuplinski*, 267 Va. 1, 591 S.E.2d 692, 693 (2004).

Because Cameron was convicted before July 1, 1998, the date the statute became effective, he had until July 1, 1999, to file a timely petition for a writ of habeas corpus. See *Haas v. Lee*, 263 Va. 273, 277, 560 S.E.2d 256 (2002) (holding that a petitioner who was convicted prior to the effective date of Code § 8.01-654(A)(2) must file a petition for a writ of habeas corpus within one year of the effective date of that code section). The Court finds that Cameron did not file the instant habeas petition until July 16, 2021 – long after the limitation period expired. Indeed, the Court notes that the Supreme Court has previously concluded that Cameron's prior habeas petition, filed in 2019, was also time barred for the same reason.

Accordingly, the Court now dismisses Cameron's habeas corpus petition as barred by the applicable statute of limitations.

Cameron's Petition is Successive

In addition, having already filed a prior habeas petition challenging the same criminal convictions, the Court finds that Cameron is now barred under Virginia Code § 8.01-654(B)(2)

from filing a successive petition asserting claims available to him at the time of his first filing. *See Dorsey v. Angelone*, 261 Va. 601, 604, 544 S.E.2d 350, 352 (2002) (“[a]t the time of filing the initial petition, the prisoner must include ‘all’ claims the facts of which are known to the prisoner. And, no habeas relief will be granted based upon ‘any’ allegation the facts of which the prisoner had knowledge at the time of filing any previous petition”).

In defense of this procedural default, Cameron asserts that he did not learn the facts underlying his claim of actual innocence until July 14, 2021 – the date in which Inova Alexandria Hospital “allegedly” wrote him a letter in which that entity disclosed the victim’s blood type without her consent. The Court, however, however, has received evidence from the respondent that the letter in question is a forgery. The Court also notes that the information sought by Cameron via a Freedom of Information Act (“FOIA”) request was not available to him as a person who is currently incarcerated. *See* Va. Code § 2.2-3703(C) (stating that all persons incarcerated in any state, local, or federal correctional facility are excluded from enjoying any of the rights afforded under FOIA to make requests for public records). Furthermore, the Court finds that a person’s blood type is a private health record, which is plainly not subject to disclosure under Va. Code § 2.2-3705.5(1) (listing “[h]ealth records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03” as being “excluded from the mandatory disclosure provisions” of FOIA).

Therefore, the Court now rejects Cameron’s claim that he that he could not have raised his actual innocence claim in his prior habeas petition. Because “[n]o writ shall be granted on the basis of any allegation the facts of which petitioner had knowledge at the time of filing any previous petition” (Va. Code § 8.01-654(B)(2); *Dorsey*, 261 Va. at 603, 544 S.E.2d at 352), the Court finds that Cameron’s latest habeas corpus petition is also barred by Code § 8.01-654(B)(2).

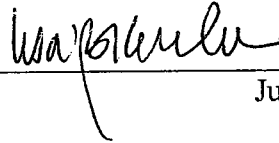
It is, therefore,

ADJUDGED and ORDERED that the petition for writ of habeas corpus be, and is hereby, denied and dismissed.

It is further ORDERED that the petitioner's endorsement on this Order is dispensed with pursuant to Rule 1:13 of the Supreme Court of Virginia.

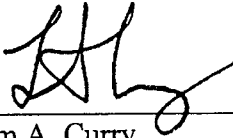
The Clerk is directed to forward a certified copy of this Order to the petitioner and Liam A. Curry, Assistant Attorney General, counsel for the respondent.

Entered this 18th day of November, 2021.



Judge

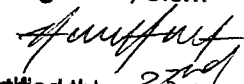
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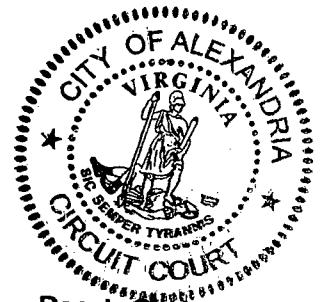
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Counsel for the Respondent

Copy Teste:

J. Greg Parks, Clerk

By , Deputy Clerk

Certified this 23rd day of Nov, 20 21



VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Thursday the 6th day of October, 2022.*

Alexander Cameron, No. 1172733,

Petitioner,

against Record No. 210748

Thomas F. Meyer, Warden,

Respondent.

Upon a Petition for Rehearing

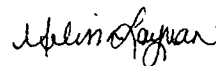
On consideration of the petition of the petitioner to set aside the judgment rendered
herein on May 17, 2022 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

Muriel-Theresa Pitney, Clerk

By:



Deputy Clerk